

IN RE: PETITION FOR VARIANCE
SE/S Caves Road, 1100' W of
the c/l of Baronet Road
(2919 Caves Road)
3rd Election District
3rd Councilmanic District

Margaret F. McKean
Petitioner

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 95-375-A
*

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner as a Petition for Variance for that property known as 2919 Caves Road, located in the vicinity of Greenspring Valley Road in Owings Mills. The Petition was filed by the owner of the property, Mrs. Margaret F. McKean. The Petitioner seeks relief from Section 400.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit an existing swimming pool and storage building to be located in the side and front yards in lieu of the required rear yard. The subject property and relief sought are more particularly described on the site plan submitted which was accepted into evidence as Petitioner's Exhibit 1.

Appearing at the hearing on behalf of the Petition were Margaret McKean, owner of the property, William Byrd, Developer, and Raymond Heil, Professional Engineer. Appearing as an interested party was Krysten Forsyth, a representative of the Valleys Planning Council. Also, J. Carroll Holzer, Esquire appeared at the hearing on behalf of Phillip Hathaway, a nearby resident of the area who was not opposed to the relief requested.

Testimony and evidence offered revealed that the subject property is also known as Lot 4 of Walnutwood, a six-lot subdivision created by Mrs. McKean that is currently proceeding through the development plan process. Walnutwood consists of 51.41 acres, more or less, zoned R.C.5.

ORDER RECEIVED FOR FILING
Date 5/1/95
By [Signature]

MICHAEL

Existing improvements on Lot 4 include a single family residence, accessory building, and a swimming pool. Due to the unique configuration of the property and the location of existing improvements thereon, the relief sought herein is necessary to legitimize the swimming pool and storage building located on Lot 4.

Mr. Holzer appeared on behalf of Mr. Phillip Hathaway, a neighbor to the subject property. Testimony indicated that by virtue of a settlement agreement reached between Mr. Hathaway and Mrs. McKean, all opposition to the relief requested has been withdrawn. Therefore, a decision shall be rendered based upon the testimony and evidence presented at the hearing.

The B.C.Z.R., specifically Section 307.1, established a two-step process for the granting of variances. That two-step process was addressed and identified by the Court of Special Appeals in the case of Cromwell v. Ward, 102 Md. App. 691 (1995). The opinion in that case, issued January 4, 1995 and authored by the Honorable J. Cathell, interpreted our regulations to require the applicant to establish the following:

First, the Applicant (Petitioner) must prove, and this Deputy Zoning Commissioner must find, that the "property whereon structures are to be placed (or uses conducted) is -- in and of itself-- unique and unusual in a manner different from the nature of surrounding properties such that the uniqueness and peculiarity of the subject property causes the zoning provision to impact disproportionately upon that property."

I find from the testimony and evidence presented in this case that the subject property is unique, unusual and different from properties which surround the subject site so as to cause this applicable zoning provision to impact disproportionately upon this particular parcel of land.

COPIES SENT TO: 5/1/95
CITY OF BALTIMORE
DEPT. OF PLANNING
5/1/95
5/1/95
5/1/95

Having satisfied this "first step" the Applicant (Petitioner) must proceed to the "second step" of this variance process, which is to show that strict compliance with the zoning regulations for Baltimore County would result in practical difficulty or unreasonable hardship.

The practical difficulty or unreasonable hardship guidelines that have been imposed by the Baltimore County Zoning Regulations (B.C.Z.R.) have been thoroughly examined and discussed by the appellate courts of this State. In Loyola Federal Savings and Loan Association v. Buschman, 227 Md. 243, 176 A.2d 355 (1961), the Court of Appeals considered the identical regulation to Section 307.1 of the B.C.Z.R.

As the Court noted: "Section 307 of the Regulations uses the two terms (practical difficulty or unreasonable hardship) in the disjunctive." Loyola Federal, p. 358. Thus, by the use of the term "or", Section 307 offers the Petitioner an opportunity to obtain its variance upon satisfaction of either the undue hardship or practical difficulty standard.

The distinction between these standards was clarified by the Court of Special Appeals in Anderson v. Board of Appeals, Town of Chesapeake Beach, 22 Md. App. 28, 322 A.2d 220 (1974). Within that opinion, the Court held that the undue hardship standard applies to a petition for a use variance. The Court noted that a use variance, which permits a use on the property other than that specifically permitted in that particular district, requires the imposition of a higher standard. That is, to allow the change of use for a particular property requires the Petitioner to demonstrate real hardship, where the land cannot allow a reasonable return if used only in accordance with the use restrictions of the ordinance.

Compared with this heavy burden, the Court reviewed the practical difficulty standard applicable for area variances. The Court characterized

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area variances as having a much less drastic effect than use variances, in that they seek relief only from height, area, setback, or side property line restrictions and would not affect the property's use, per se. The Court envisioned the impact of area variances on the surrounding locale to be less than that generated by use variances, and thus, the lesser practical difficulty standard applies. The prongs of that standard which must be satisfied by the Petition, as enunciated in Anderson, supra, are as follows:

- 1) whether compliance with the strict letter of restrictions governing area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome;
- 2) whether a grant of the variance applied for would do substantial justice to an applicant as well as to other property owners in the district or whether a lesser relaxation than that applied for would give sufficient relief to the owner of the property involved and be more consistent with that afforded other property owners; and
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

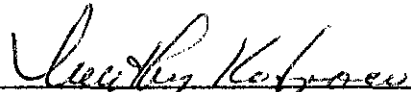
Anderson, p. 39. See also McLean v. Soley, 270 Md. 208 (1973) at pps. 214-215.

I find from the testimony and evidence presented at the hearing before me that the Petitioner has in fact proven the practical difficulty standards as set forth above and that the variance requested should be granted. I further find that the granting of this variance is in strict harmony with the spirit and intent of the B.C.Z.R. and that the granting of this relief is accomplished without injury to the public health, safety or general welfare.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons set forth above, the relief requested should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 1st day of August, 1995 that the Petition for Variance seeking relief from Section 400.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit an existing swimming pool and storage building to be located in the side and front yards in lieu of the required rear yard, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restriction:

- 1) The Petitioner is hereby made aware that proceeding at this time is at her own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the relief granted herein shall be rescinded.


TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning



Suite 112 Courthouse
400 Washington Avenue
Towson, MD 21204

(410) 887-4386

August 1, 1995

Mrs. Margaret F. McKean
2919 Caves Road
Owings Mills, Maryland 21117

RE: PETITION FOR VARIANCE
SE/S Caves Road, 1100' W of the c/l of Baronet Road
(2919 Caves Road)
3rd Election District - 3rd Councilmanic District
Margaret F. McKean - Petitioner
Case No. 95-375-A

Dear Mrs. McKean:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Variance has been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Permits and Development Management office at 887-3391.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Timothy M. Kotroco".

TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

cc: Mr. William Byrd
303 Deep Dale Drive, Lutherville, Md. 21093

J. Carroll Holzer, Esquire
305 Washington Avenue, Towson, Md. 21204

Ms. Kristen Forsyth, The Valleys Planning Council
P.O. Box 5402, Towson, Md. 21285

People's Counsel; File





Petition for Variance

95-375-A

to the Zoning Commissioner of Baltimore County

for the property located at 2919 Caves Road, Owings Mills, MD 21117
which is presently zoned RC5

This Petition shall be filed with the Office of Zoning Administration & Development Management.

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s) 400.1 ; BLZR TO PERMIT

ACCESSORY STRUCTURES (POOL, STORAGE BUILDING TO BE LOCATED IN THE SIDE AND FRONT YARD IN LIEU OF THE PERMITTED REAR.

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County, for the following reasons: (indicate hardship or practical difficulty)

1. Location of pool and garage in side yard of house is an existing condition that cannot be reasonably changed.
2. Location of pool and garage in side yard of house is not visible from a public road.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Contract Purchaser/Lessee

(Type or Print Name)

Signature

Address

City State Zipcode

Attorney for Petitioner

(Type or Print Name)

Signature

Address

Phone No.

City State Zipcode

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition

Legal Owner(s)

Mrs. Margaret F. McKean

(Type or Print Name)

Signature

(Type or Print Name)

Signature

2919 Caves Road

Address

363-0720

Phone No.

Owings Mills, Maryland

City

State

21117

Zipcode

Name, Address and phone number of representative to be contacted

Mr. William Byrd

Name

303 Deep Dale Dr., Lutherville, MD 21093

Address

(410)252-9591

Phone No.

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING

unavailable for Hearing

the following dates _____ Next Two Months

ALL _____ OTHER _____

REVIEWED BY: [Signature]

DATE

4-18-95

364

ORDER RECEIVED FOR FILING

Date

By



Printed with Soybean Ink
on Recycled Paper





**ZONING DESCRIPTION
WALNUTWOOD SUBDIVISION
3RD ELECTION DISTRICT
BALTIMORE COUNTY, MARYLAND**

(This description is for a zoning variance for proposed Lot 4, as shown on the development Plan for the proposed Walnutwood Subdivision).

COMMENCING FOR THE SAME at the intersection of the centerlines of Caves Road and Baronet Road, thence running down Caves Road South 69 degrees 15 minutes 00 seconds West 1,100 feet more or less to the **Point of Beginning**, thence leaving Caves Road

- 1) South 10 degrees 47 minutes 00 seconds East 310.44 feet, thence
- 2) South 75 degrees 03 minutes 40 seconds East 64.51 feet, thence
- 3) North 68 degrees 58 minutes 00 seconds East 241.04 feet, thence
- 4) South 10 degrees 47 minutes 00 seconds East 648.61 feet, thence
- 5) South 09 degrees 51 minutes 00 seconds East 476.82 feet, thence
- 6) South 05 degrees 56 minutes 07 seconds West 968.09 feet, thence
- 7) North 86 degrees 36 minutes 52 seconds West 387.07 feet, thence
- 8) South 17 degrees 33 minutes 00 seconds East 500.00 feet, thence
- 9) North 40 degrees 58 minutes 00 seconds West 1572.60 feet, thence
- 10) North 17 degrees 33 minutes 00 seconds West 440.08 feet, thence
- 11) North 72 degrees 27 minutes 00 seconds East 160.38 feet, thence

WALNUTWOOD
364

95-375-A



Zoning Description
Walnutwood Subdivision
KCI Job No. 01-94093
April 17, 1995
Page 2

- 12) North 17 degrees 33 minutes 00 seconds West 85.00 feet, thence
- 13) North 72 degrees 27 minutes 00 seconds East 188.38 feet, thence
- 14) South 17 degrees 40 minutes 33 seconds East 348.00 feet, thence
- 15) North 72 degrees 27 minutes 00 seconds East 275.45 feet, thence along Caves Road
- 16) North 17 degrees 33 minutes 00 seconds West 1,022.34 feet, thence
- 17) North 62 degrees 54 minutes 00 seconds East 128.70 feet, thence
- 18) North 68 degrees 58 minutes 00 seconds East 504.80 feet to the **Point of Beginning.**

Containing 51.4 acres of land more or less.

AP/dgj

KCI Job No. 01-94093

April 14, 1995

364

MICROFILMED

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

95-375-A

District 3rd

Date of Posting 5/3/95

Posted for: Variance

Petitioner: Margaret F. McKean

Location of property: 2919 Caros Rd., SE/S

Location of Sign: Facing roadway on property being zoned

Remarks:

Posted by M. H. Hasty
Signature

Date of return: 5/12/95

Number of Signs: 1



NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 108 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204 or Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

Case: #95-375-A
(Item 364)
2919 Caves Road
Walnutwood
SE/S Caves Road,
1100' +/- W of c/l Baronet
Road
3rd Election District
3rd Councilmanic
Legal Owner:
Margaret F. McKean
Hearing: Wednesday,
May 31, 1995 at 9:00
a.m. in Rm. 118, Old
Courthouse.

Variance to permit an accessory structure (pool and storage building) to be located in the side and front yard in lieu of the required rear.

LAWRENCE E. SCHMIDT
Zoning Commissioner for
Baltimore County

NOTES: (1) Hearings are Handicapped Accessible; for special accommodations Please Call 887-3353.

(2) For information concerning the File and/or Hearing, Please Call 887-3391.
5/065 May 4.

CERTIFICATE OF PUBLICATION

TOWSON, MD., 5/5, 19 95

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 5/4, 1995.

THE JEFFERSONIAN,

A. Henrickson

LEGAL AD. - TOWSON

~~Publishing~~



Baltimore County
Zoning Administration &
Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204

364

receipt

95-375-A

Account: R-001-6150

Number

1000

Date

4-18-95

MARGARET MCKEAN

2919 CROCS Rd.

VAR. (010)
POSTING (080)

50.00

35.00

85.00

APR 21 1995

03A03#0027MICARC

\$85.00

BA 00D2#22PM04-18-95

Please Make Checks Payable To: Baltimore County

Cashier Validation

Baltimore County Government
Office of Zoning Administration
and Development Management



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

ZONING HEARING ADVERTISING AND POSTING REQUIREMENTS & PROCEDURES

Baltimore County Zoning Regulations require that notice be given to the general public/neighbor property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property and placement of a notice in at least one newspaper of general circulation in the County.

This office will ensure that the legal requirements for posting and advertising are satisfied. However, the petitioner is responsible for the costs associated with these requirements.

PAYMENT WILL BE MADE AS FOLLOWS:

- 1) Posting fees will be assessed and paid to this office at the time of filing.
 - 2) Billing for legal advertising, due upon receipt, will come from and should be remitted directly to the newspaper.
- NON-PAYMENT OF ADVERTISING FEES WILL STAY ISSUANCE OF ZONING ORDER.

A handwritten signature in cursive script, reading "Arnold Jablon".

ARNOLD JABLON, DIRECTOR

For newspaper advertising:

Item No.: 364

Petitioner: MRS. MARGARET F. MCKEAN

Location: 2919 CAVES ROAD, OWINGS MILLS, MD. 21093

PLEASE FORWARD ADVERTISING BILL TO:

NAME: MR. WILLIAM BYRD

ADDRESS: 303 DEEP DALE DRIVE, LUTHERVILLE, MD. 21093

PHONE NUMBER: 252-9591

AJ:ggs

(Revised 04/09/93)



Baltimore County Government
Office of Zoning Administration
and Development Management



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

April 28, 1995

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204
or
Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 95-375-A (Item 364)

2919 Caves Road

Walnutwood

SE/S Caves Road, 1100' +/- W of c/l Baronet Road

3rd Election District - 3rd Councilmanic

Legal Owner: Margaret F. McKean

HEARING: WEDNESDAY, MAY 31, 1995 at 9:00 a.m. in Room 118 Old Courthouse.

Variance to permit an accessory structure (pool and storage building) to be located in the side and front yard in lieu of the required rear.

A handwritten signature in cursive script, reading "Arnold Jablon".

Arnold Jablon
Director

cc: Margaret F. McKean
William Byrd

- NOTES: (1) ZONING SIGN & POST MUST BE RETURNED TO RM. 104, 111 W. CHESAPEAKE AVENUE ON THE HEARING DATE.
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 887-3391.



Baltimore County Government
Office of Zoning Administration
and Development Management



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

May 19, 1995

Mrs. Margaret F. McKean
2919 Caves Road
Owings Mills, Maryland 21117

RE: Item No.: 364
Case No.: 95-375-A
Petitioner: M. F. McKean

Dear Mrs. McKean:

The Zoning Advisory Committee (ZAC), which consists of representatives from Baltimore County approving agencies, has reviewed the plans submitted with the above referenced petition. Said petition was accepted for processing by, the Office of Zoning Administration and Development Management (ZADM), Development Control Section on April 18, 1995.

Any comments submitted thus far from the members of ZAC that offer or request information on your petition are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties; i.e., zoning commissioner, attorney, petitioner, etc. are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. Only those comments that are informative will be forwarded to you; those that are not informative will be placed in the permanent case file.

If you need further information or have any questions regarding these comments, please do not hesitate to contact the commenting agency or Joyce Watson in the zoning office (887-3391).

Sincerely,

A handwritten signature in dark ink, reading "W. Carl Richards, Jr." with a stylized flourish at the end.

W. Carl Richards, Jr.
Zoning Supervisor

WCR/jw
Attachment(s)



BALTIMORE COUNTY, MARYLAND

May 11, 1995

Environmental Impact Review

Development of the property must comply with Regulations for Forest Conservation.

WALNUTWO/DEPRM/TXTSBP

B A L T I M O R E C O U N T Y, M A R Y L A N D

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Zoning Administration &
Development Management

FROM: Pat Keller, Director
Office of Planning and Zoning

DATE: May 4, 1995

SUBJECT: Variance Requests

INFORMATION:

Item Numbers: 362, 363, 364, 367, 372, 374, 380 and 383.

SUMMARY OF RECOMMENDATIONS:

While staff does not oppose the requested Variances, it is clear that the petitioners will need to satisfy the burden imposed upon them to prove practical difficulty and/or unreasonable hardship to justify the granting of the subject Variances.

Prepared by:

Jeffrey M. Long

Division Chief:

Gary L. Kerns

PK/JL

MICROFILMED



Maryland Department of Transportation
State Highway Administration

O. James Lighthizer
Secretary
Hal Kassoff
Administrator

5-2-95

Ms. Joyce Watson
Zoning Administration and
Development Management
County Office Building
Room 109
111 W. Chesapeake Avenue
Towson, Maryland 21204

Re: Baltimore County
Item No.: 364 (JCM)

Dear Ms. Watson:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not effected by any State Highway Administration project.

Please contact Bob Small at 410-333-1350 if you have any questions.

Thank you for the opportunity to review this item.

Very truly yours,

Bob Small

for

Ronald Burns, Chief
Engineering Access Permits
Division

BS/

MICROFILMED

Baltimore County Government
Fire Department



700 East Joppa Road Suite 901
Towson, MD 21286-5500

(410) 887-4500

DATE: 05/05/95

Arnold Jablon
Director
Zoning Administration and
Development Management
Baltimore County Office Building
Towson, MD 21204
MAIL STOP-1105

RE: Property Owner: SEE BELOW

LOCATION: DISTRIBUTION MEETING OF MAY 1, 1995.

Item No.: SEE BELOW

Zoning Agenda:

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

8. The Fire Marshal's Office has no comments at this time.
IN REFERENCE TO THE FOLLOWING ITEM NUMBERS: 362, 363, 364, 365, 366, 367, 369, 370, 371, 372, 373, 375, 376 and 377.

RECEIVED
MAY 8 1995
ZADM

REVIEWER: LT. ROBERT P. SAUERWALD
Fire Marshal Office, PHONE 887-4881, MS-1102F

cc: File



BALTIMORE COUNTY, MARYLAND
I N T E R O F F I C E C O R R E S P O N D E N C E

TO: Arnold Jablon, Director DATE: May 8, 1995
Zoning Administration and Development Management

FROM: Robert W. Bowling, P.E., Chief
Developers Engineering Section

RE: Zoning Advisory Committee Meeting
for May 8, 1995
Items 362, 363, 364, 366, 367, 369, 372, 373, 374 and 375 and Case No. 95-308-X

The Developers Engineering Section has reviewed the subject zoning item and we have no comments.

RWB:sw

RE: PETITION FOR VARIANCE * BEFORE THE
2919 Caves Road - Walnutwood - SE/S Caves *
Road, 1100'+/- W of c/l Baronet Road * ZONING COMMISSIONER
3rd Election District, 3rd Councilmanic * OF BALTIMORE COUNTY
Margaret F. McKean *
Petitioner * CASE NO. 95-375-A

* * * * *

ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order.

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S. Demilio

CAROLE S. DEMILIO
Deputy People's Counsel
Room 47, Courthouse
400 Washington Avenue
Towson, MD 21204
(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 9th day of May, 1995, a copy of the foregoing Entry of Appearance was mailed to William Byrd, 303 Deep Dale Drive, Lutherville, MD 21093, representative for Petitioner.

Peter Max Zimmerman

PETER MAX ZIMMERMAN

PROTESTANT(S) SIGN-IN SHEET

NAME

Kristine Lough (Interested Party)

J. Carol Holzer

ADDRESS

Valleys Planning Council, P.O. Box 5402
Towson, MD 21285

305 Washington Ave, Towson MD

2B

ZONING VARIANCE (CONTINUED)



LOOKING WEST AT EXISTING STORAGE BUILDING PROPOSED IN FRONT/
SIDE YARD OF LOT 4.

LOOKING EAST AT REAR OF EXISTING HOUSE ON PROPOSED LOT 4 FROM
REAR OF MAIN HOUSE.



PETITIONER'S

PROPOSED WALNUTWOOD SUBDIVISION

EXHIBIT

2A

RE: ZONING VARIANCE REQUEST (CASE NO. 93-1573-A, L.P.D. 361) TO
PERMIT AN EXISTING POOL AND STORAGE BUILDING TO BE LOCATED
IN THE SIDE YARD OF PROPOSED LOT 4.

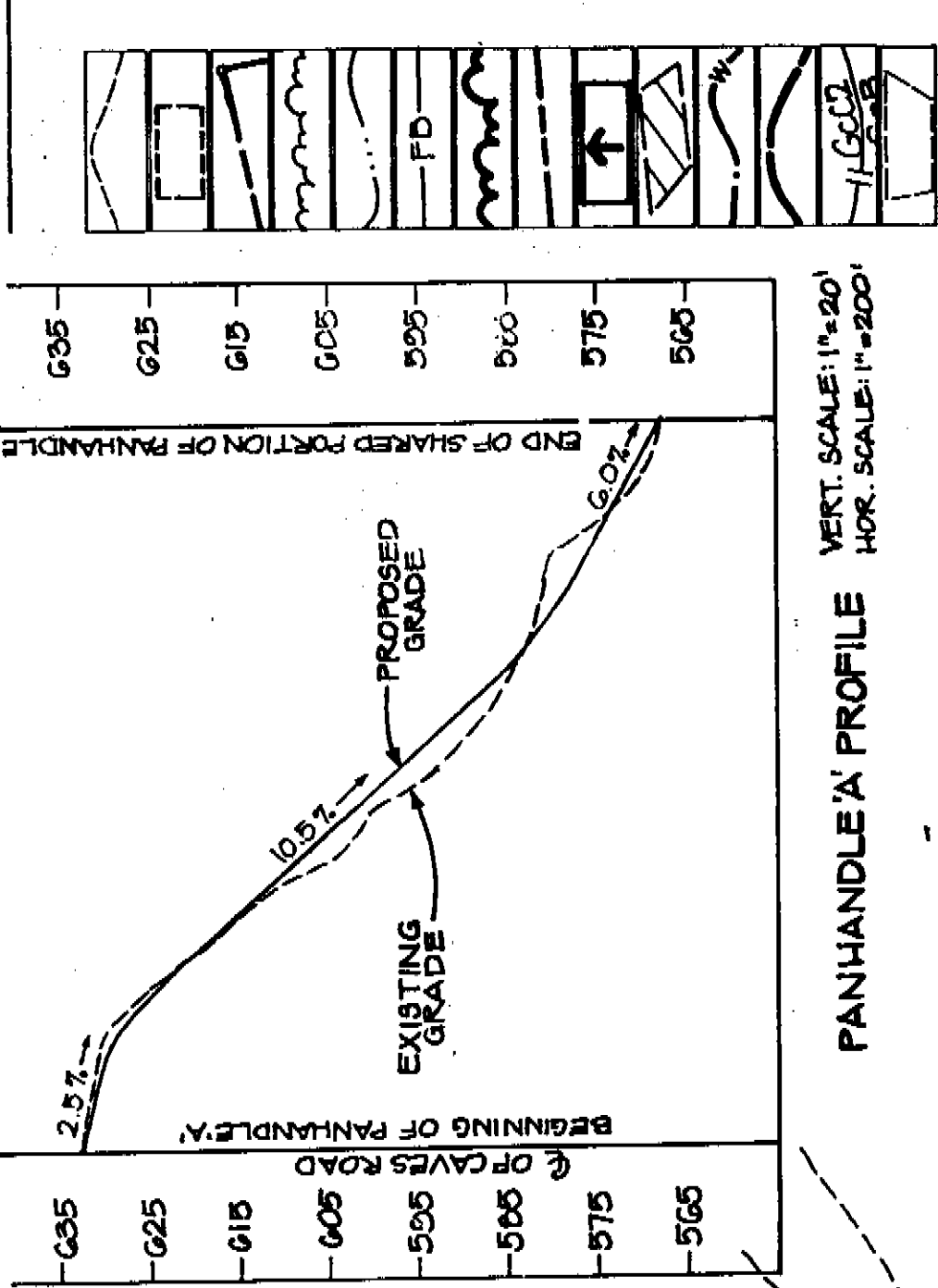


LOOKING SOUTH AT EXISTING HOUSE PROPOSED AS THE PRIMARY STRUCTURE
FOR LOT 4.

LOOKING NORTH AT THE EXISTING POOL IN THE SIDE YARD OF PROPOSED
LOT 4.



LEGEND



PANHANDLE A' PROFILE VERT. SCALE: 1"=20' HOR. SCALE: 1"=200'

PANHANDLE DETAIL NOT TO SCALE

41.4' CONC. ROAD FOR REFUSE CONTAINERS

ACCESS EASEMENT WITH WATERS

ROBERT & SHERRY GOODMAN 1007/540

NOT TO SCALE

41.4' CONC. ROAD FOR REFUSE CONTAINERS

ACCESS EASEMENT WITH WATERS

ROBERT & SHERRY GOODMAN 1007/540

NOT TO SCALE

41.4' CONC. ROAD FOR REFUSE CONTAINERS

ACCESS EASEMENT WITH WATERS

ROBERT & SHERRY GOODMAN 1007/540

NOT TO SCALE

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ACCESS EASEMENT WITH WATERS

ROBERT & SHERRY GOODMAN 1007/540

NOT TO SCALE

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ACCESS EASEMENT WITH WATERS

ROBERT & SHERRY GOODMAN 1007/540

NOT TO SCALE

41.4' CONC. ROAD FOR REFUSE CONTAINERS

ACCESS EASEMENT WITH WATERS

ROBERT & SHERRY GOODMAN 1007/540

NOT TO SCALE

41.4' CONC. ROAD FOR REFUSE CONTAINERS

ACCESS EASEMENT WITH WATERS

ROBERT & SHERRY GOODMAN 1007/540

NOT TO SCALE

41.4' CONC. ROAD FOR REFUSE CONTAINERS

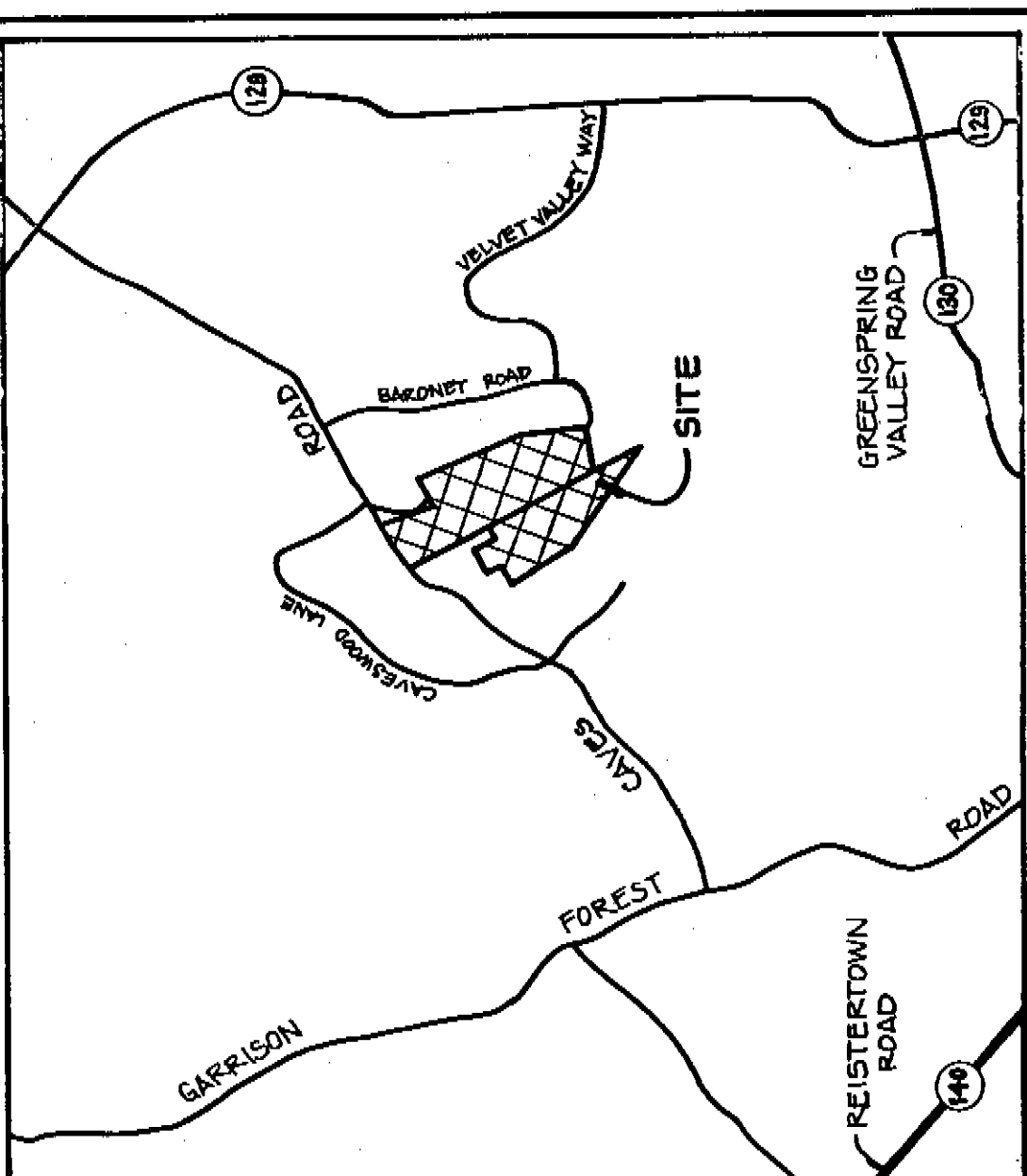
ACCESS EASEMENT WITH WATERS

ROBERT & SHERRY GOODMAN 1007/540

NOT TO SCALE

41.4' CONC. ROAD FOR REFUSE CONTAINERS

ACCESS EASEMENT WITH WATERS



VICINITY MAP SCALE: 1"=2000'

There is no open space requirement for this project. No variances, special exceptions, special hearings or waivers are being requested. Existing restrictive covenants or other legal restrictions on development of this site.

Estimated number of additional average daily trips (ADT's) for this project: 52.

All proposed lots will be served by private well and septic systems. All proposed lots are larger than two acres - therefore this project is exempt from stormwater management requirements.

The site is partially forested. A forest stand delineation has been prepared, submitted and approved by Baltimore County DEPRM. A Forest Conservation Plan will be submitted in conjunction with the proposed development.

No more than 15% of any lot in an RC-5 zone may be covered by buildings.

No more than one dwelling is permitted on any lot in an RC-5 zone.

There are no proposed impacts to the non-tidal wetlands on this property.

Topography shown is taken from the Baltimore County 200 scale topographic map.

Two underground fuel storage tanks exist on site. Both tanks will be tested to confirm absence of leakage.

All private drives are to be paved with a durable, dustless surface.

Accessory structures, fences and projections into buildings are to be maintained by the owner of the lot.

There shall be no clearing, grading, construction, or disturbance of vegetation in the forest buffer area.

Assessments except as permitted by the Baltimore County Department of Environmental Protection and Resource Management.

Any forest buffer or forest conservation easement shown hereon is subject to protective covenants which may be found in the Land Records of Baltimore County and which restrict disturbance and removal of trees.

Envelopes shown hereon are for the location of all principle buildings only. Accessory structures, fences and projections into yards may be constructed outside the envelopes, but must comply with Sections 400 and 301 of the Baltimore County Zoning Ordinance.

Accessory structures, fences and projections into yards cannot be located in floodplain areas or hydroic soils.

Any buildings to remain that will not be used as a dwelling must meet requirements of the Baltimore County Zoning Ordinance.

Property, The Fish, Heritage, and Wildlife Administration has no record of rare, threatened or endangered species habitats within this project site.

All lots will be sold in fee simple.

All lots will be served by the Zoning Commissioner, that it is based on his interpretation of the Zoning Regulations, that it complies with present policy, density and bulk controls as they are contained in the Regulations. Any part or parcel of this tract that has been utilized for density to support or develop for additional use shall not be utilized for density to support or develop for additional use.

Utilization will have occurred when a dwelling is constructed and transferred for the purpose of occupancy.

Outline survey shown hereon is taken from deed and survey prepared by Malcolm Hudkins.

Office of Planning and Zoning

Approved by: Director of Planning Date

Zoning Commissioner Date

Richard R. Agreer Jackson GSO4/420

North arrow pointing up.

Seal of the State of Maryland.

Job Number: 95-375-A

Date: 3/1/05

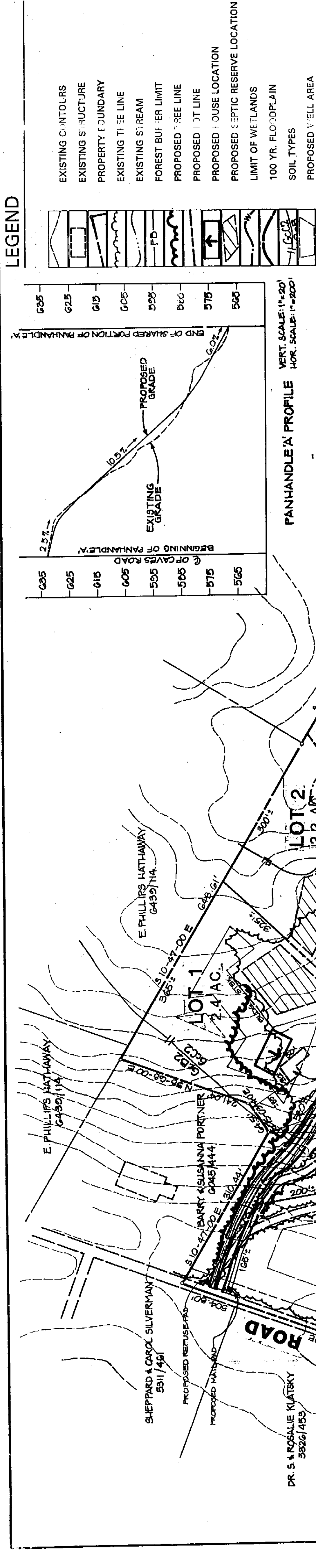
Scale: 1"=100'

Sheet: 1 of 1

Councilmanic District: 3

Election District: 3

Walnutwood Address: 8919 Caves Road, Owings Mills, MD 21117



TYPICAL LOT LAYOUT

SOIL SERIES DATA

DATE: 3/2/05

REVISIONS

Added Delinquent Accounts note.

Check

Design

Check

Owner/Developer: Mrs. Margaret F. McKean

303 Deep Dale Rd., Lutherville, MD 21093

(410) 252-9581

Contact: Mr. Bill Byrd

303 Deep Dale Rd., Lutherville, MD 21093

(410) 252-9581

Owner/Developer: Mrs. Margaret F. McKean

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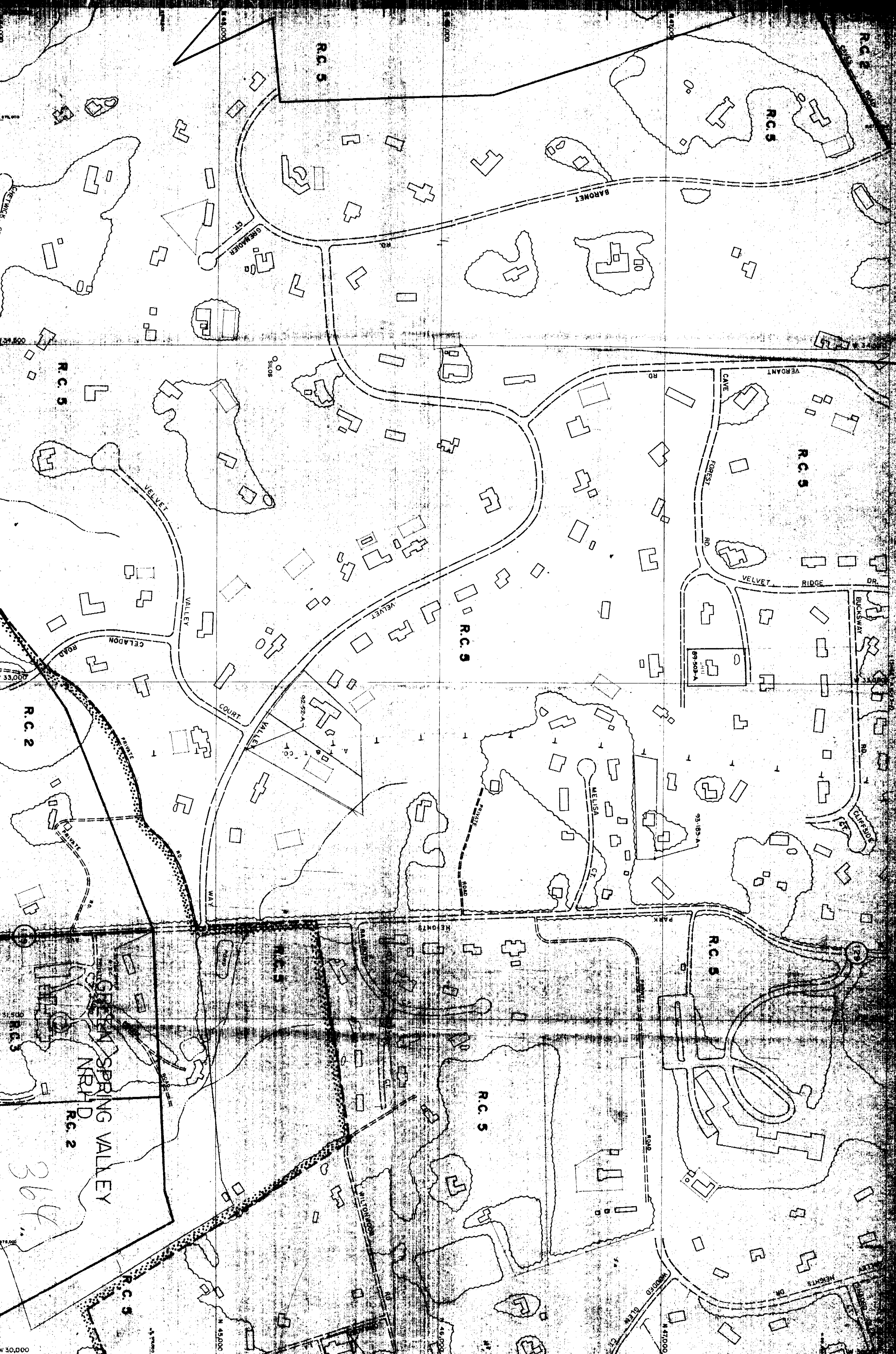
Owner/Developer: Mrs. Margaret F. McKean

303 Deep Dale Rd., Lutherville, MD 21093

(410) 252-9581

Contact: Mr. Bill Byrd

BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
OFFICIAL ZONING MAP



BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
OFFICIAL ZONING MAP

1972 BALTIMORE COUNTY ZONING MAP
Dec. 18, 1972

SCALE 1" = 200' ±

DATE JANUARY 1988

LOCATION ECCLESTON P.O. N.W. 12-1

CHAITOLANE AIRBORNE

IN RE: PETITION FOR VARIANCE
SE/S Caves Road, 1100' W of
the c/l of Baronet Road
(2919 Caves Road)
3rd Election District
3rd Councilmanic District
Margaret F. McKean
Petitioner

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 95-375-A
*

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner as a Petition for Variance for that property known as 2919 Caves Road, located in the vicinity of Greenspring Valley Road in Owings Mills. The Petition was filed by the owner of the property, Mrs. Margaret F. McKean. The Petitioner seeks relief from Section 400.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit an existing swimming pool and storage building to be located in the side and front yards in lieu of the required rear yard. The subject property and relief sought are more particularly described on the site plan submitted which was accepted into evidence as Petitioner's Exhibit 1.

Appearing at the hearing on behalf of the Petition were Margaret McKean, owner of the property, William Byrd, Developer, and Raymond Heil, Professional Engineer. Appearing as an interested party was Krysten Forsyth, a representative of the Valleys Planning Council. Also, J. Carroll Holzer, Esquire appeared at the hearing on behalf of Phillip Hathaway, a nearby resident of the area who was not opposed to the relief requested.

Testimony and evidence offered revealed that the subject property is also known as Lot 4 of Walnutwood, a six-lot subdivision created by Mrs. McKean that is currently proceeding through the development plan process. Walnutwood consists of 51.41 acres, more or less, zoned R.C.5.

Existing improvements on Lot 4 include a single family residence, accessory building, and a swimming pool. Due to the unique configuration of the property and the location of existing improvements thereon, the relief sought herein is necessary to legitimize the swimming pool and storage building located on Lot 4.

Mr. Holzer appeared on behalf of Mr. Phillip Hathaway, a neighbor to the subject property. Testimony indicated that by virtue of a settlement agreement reached between Mr. Hathaway and Mrs. McKean, all opposition to the relief requested has been withdrawn. Therefore, a decision shall be rendered based upon the testimony and evidence presented at the hearing.

The B.C.Z.R., specifically Section 307.1, established a two-step process for the granting of variances. That two-step process was addressed and identified by the Court of Special Appeals in the case of Cromwell v. Ward, 102 Md. App. 691 (1995). The opinion in that case, issued January 4, 1995 and authored by the Honorable J. Cathell, interpreted our regulations to require the applicant to establish the following:

First, the Applicant (Petitioner) must prove, and this Deputy Zoning Commissioner must find, that the "property whereon structures are to be placed (or uses conducted) is -- in and of itself -- unique and unusual in a manner different from the nature of surrounding properties such that the uniqueness and peculiarity of the subject property causes the zoning provision to impact disproportionately upon that property."

I find from the testimony and evidence presented in this case that the subject property is unique, unusual and different from properties which surround the subject site so as to cause this applicable zoning provision to impact disproportionately upon this particular parcel of land.

- 2 -

Having satisfied this "first step" the Applicant (Petitioner) must proceed to the "second step" of this variance process, which is to show that strict compliance with the zoning regulations for Baltimore County would result in practical difficulty or unreasonable hardship.

The practical difficulty or unreasonable hardship guidelines that have been imposed by the Baltimore County Zoning Regulations (B.C.Z.R.) have been thoroughly examined and discussed by the appellate courts of this State. In Loyola Federal Savings and Loan Association v. Buschman, 227 Md. 243, 176 A.2d 355 (1961), the Court of Appeals considered the identical regulation to Section 307.1 of the B.C.Z.R.

As the Court noted: "Section 307 of the Regulations uses the two terms (practical difficulty or unreasonable hardship) in the disjunctive." Loyola Federal, p. 358. Thus, by the use of the term "or", Section 307 offers the Petitioner an opportunity to obtain its variance upon satisfaction of either the undue hardship or practical difficulty standard.

The distinction between these standards was clarified by the Court of Special Appeals in Anderson v. Board of Appeals, Town of Chesapeake Beach, 22 Md. App. 28, 322 A.2d 220 (1974). Within that opinion, the Court held that the undue hardship standard applies to a petition for a use variance. The Court noted that a use variance, which permits a use on the property other than that specifically permitted in that particular district, requires the imposition of a higher standard. That is, to allow the change of use for a particular property requires the Petitioner to demonstrate real hardship, where the land cannot allow a reasonable return if used only in accordance with the use restrictions of the ordinance.

Compared with this heavy burden, the Court reviewed the practical difficulty standard applicable for area variances. The Court characterized

- 3 -

area variances as having a much less drastic effect than use variances, in that they seek relief only from height, area, setback, or side property line restrictions and would not affect the property's use, per se. The Court envisioned the impact of area variances on the surrounding locale to be less than that generated by use variances, and thus, the lesser practical difficulty standard applies. The prongs of that standard which must be satisfied by the Petition, as enunciated in Anderson, supra, are as follows:

- 1) whether compliance with the strict letter of restrictions governing area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome;
- 2) whether a grant of the variance applied for would do substantial justice to an applicant as well as to other property owners in the district or whether a lesser relaxation than that applied for would give sufficient relief to the owner of the property involved and be more consistent with that afforded other property owners; and
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson, p. 39. See also McLean v. Soley, 270 Md. 208 (1973) at pps. 214-215.

I find from the testimony and evidence presented at the hearing before me that the Petitioner has in fact proven the practical difficulty standards as set forth above and that the variance requested should be granted. I further find that the granting of this variance is in strict harmony with the spirit and intent of the B.C.Z.R. and that the granting of this relief is accomplished without injury to the public health, safety or general welfare.

- 4 -

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons set forth above, the relief requested should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 13th day of August, 1995 that the Petition for Variance seeking relief from Section 400.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit an existing swimming pool and storage building to be located in the side and front yards in lieu of the required rear yard, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restriction:

- 1) The Petitioner is hereby made aware that proceeding at this time is at her own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the relief granted herein shall be rescinded.

Timothy M. Kotroco
TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning



Suite 112 Courthouse
400 Washington Avenue
Towson, MD 21204

August 1, 1995

(410) 887-4386

Mrs. Margaret F. McKean
2919 Caves Road
Owings Mills, Maryland 21117

RE: PETITION FOR VARIANCE
SE/S Caves Road, 1100' W of the c/l of Baronet Road
(2919 Caves Road)
3rd Election District - 3rd Councilmanic District
Margaret F. McKean - Petitioner
Case No. 95-375-A

Dear Mrs. McKean:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Variance has been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Permits and Development Management office at 887-3391.

Very truly yours,

Timothy M. Kotroco
TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

cc: Mr. William Byrd
303 Deep Dale Drive, Lutherville, Md. 21093

J. Carroll Holzer, Esquire
305 Washington Avenue, Towson, Md. 21204

Ms. Kristen Forsyth, The Valleys Planning Council
P.O. Box 5402, Towson, Md. 21285

People's Counsel: Fyle



Petition for Variance
to the Zoning Commissioner of Baltimore County

for the property located at 2919 Caves Road, Owings Mills, MD 21117
which is presently zoned RC5

This Petition shall be filed with the Office of Zoning Administration & Development Management. The undersigned legal owner(s) of the property situated in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s) 400.1, B.C.Z.R. to allow an existing swimming pool and storage building to be located in the side and front yards in lieu of the required rear yard.

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County, for the following reasons (indicate hardship or practical difficulty):

1. Location of pool and garage in side yard of house is an existing condition that cannot be reasonably changed.
2. Location of pool and garage in side yard of house is not visible from a public road.

Property is to be posted and advertised as prescribed by Zoning Regulations. I do not agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Contact Purchaser/Lessee

Type or Print Name

Signature

Address

City State Zip

Attorney for Petitioner

Type or Print Name

Signature

Address

City State Zip

After 11:00 PM, declare and affirm, under the penalties of perjury, that you are the legal owner(s) of the property and that you are the owner(s) of the property.

Large Capital

Mrs. Margaret F. McKean

Type or Print Name

Signature

Type or Print Name

2919 Caves Road 361-0720

Owings Mills, Maryland 21117

City State Zip

Name Address and phone number of representative to be contacted

Mr. William Byrd

Name

303 Deep Dale Dr., Lutherville, MD 21093

Address (410) 255-9591

City State Zip

ESTIMATED LENGTH OF HEARING

Indicate the following date: _____ Next Two Months

ALL _____ OTHER _____

RECEIVED BY: _____ DATE: 4-18-95

CHIEF CLERK FOR FILING

Date

By

Printed with Soybean Ink on Recycled Paper



ZONING DESCRIPTION
WALNUTWOOD SUBDIVISION
3RD ELECTION DISTRICT
BALTIMORE COUNTY, MARYLAND

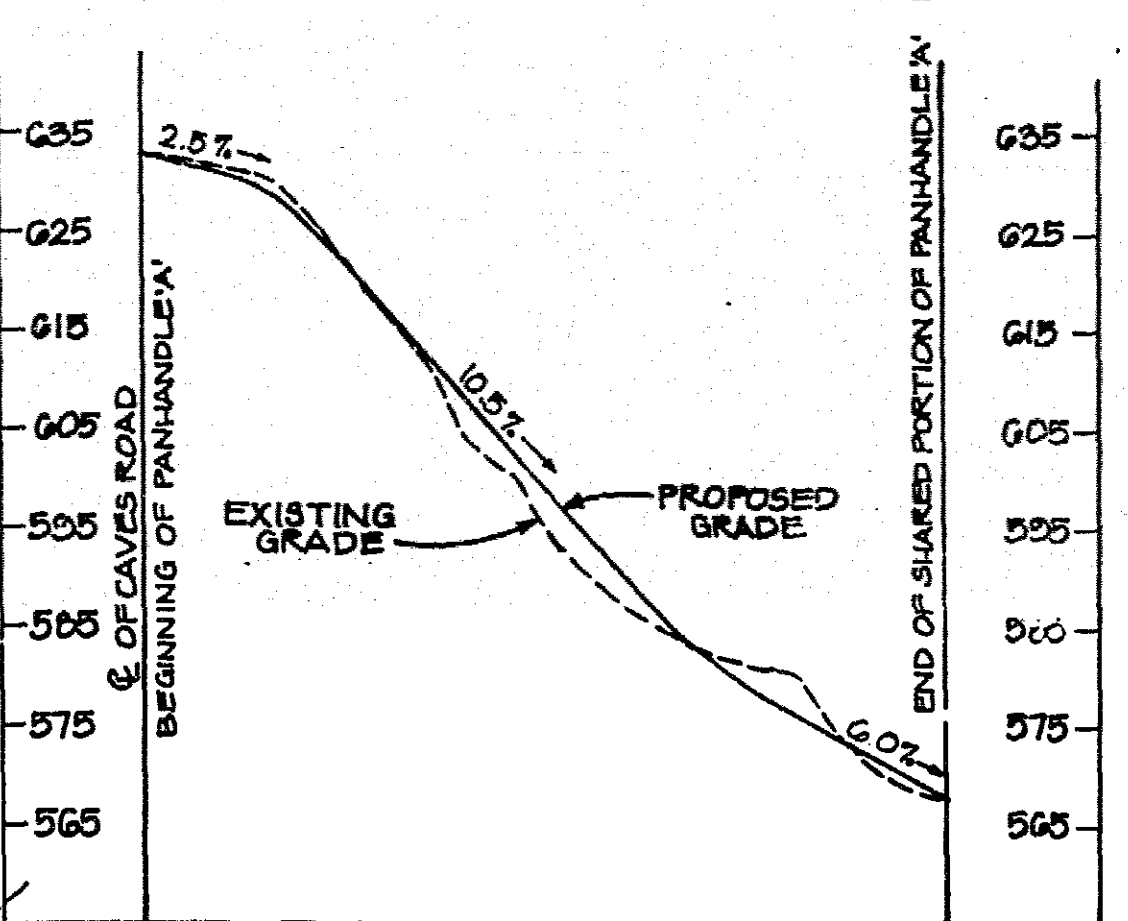
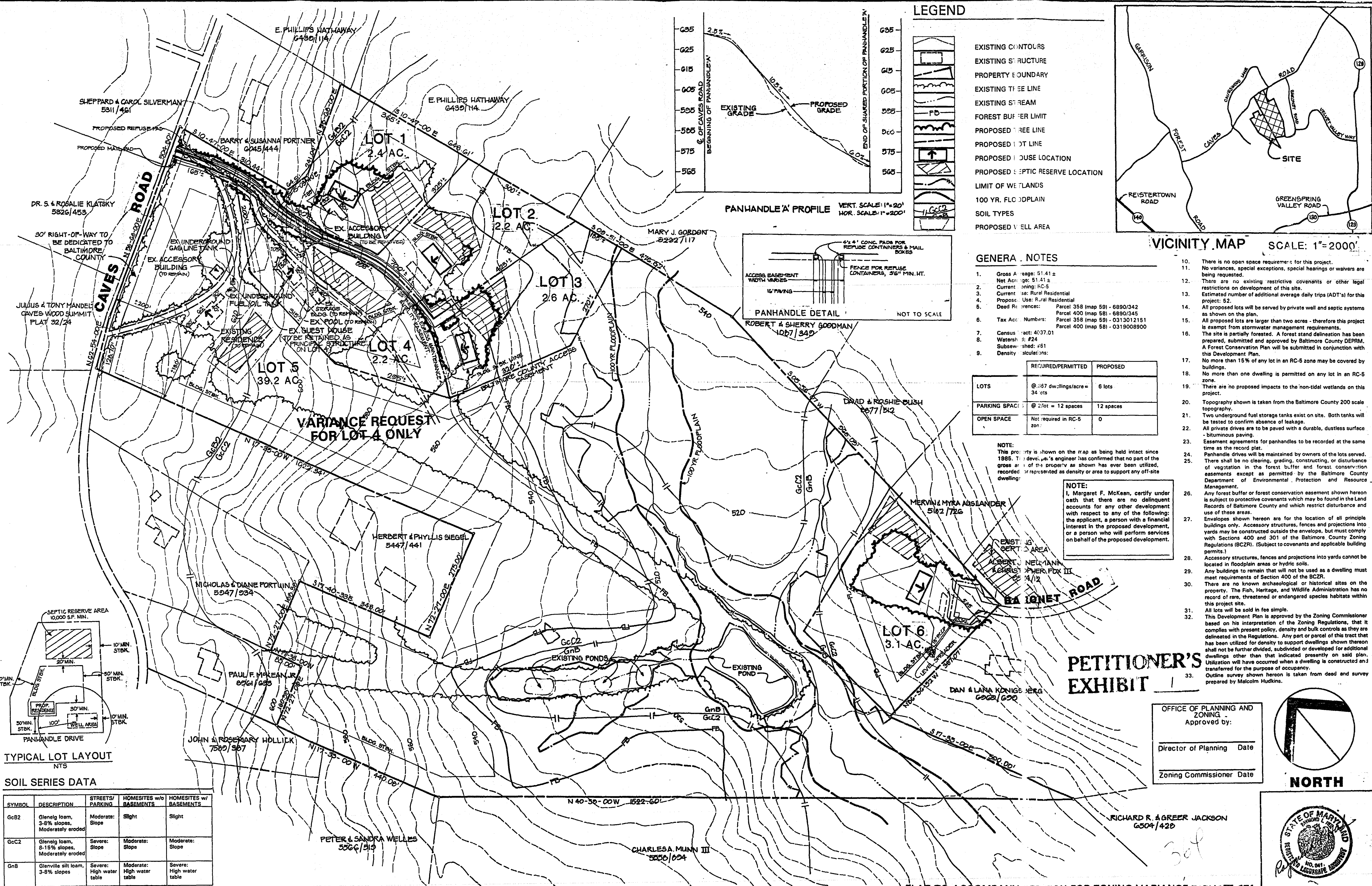
(This description is for a zoning variance for proposed Lot 4, as shown on the development Plan for the proposed Walnutwood Subdivision).

COMMENCING FOR THE SAME at the intersection of the centerlines of Caves Road and Baronet Road, thence running down Caves Road South 69 degrees 15 minutes 00 seconds West 1,100 feet more or less to the Point of Beginning, thence leaving Caves Road

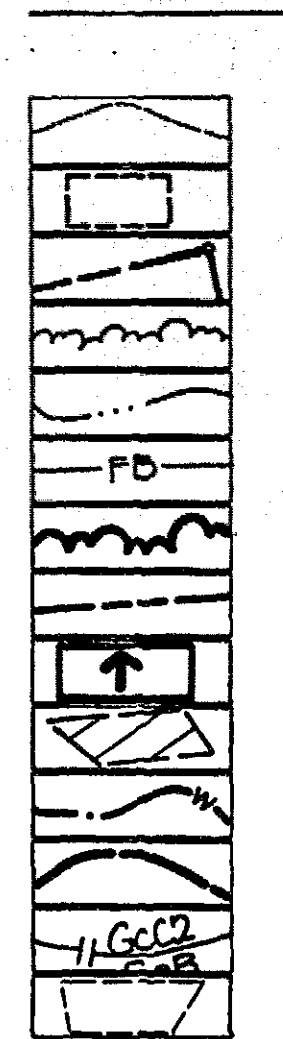
- 1) South 10 degrees 47 minutes 00 seconds East 310.44 feet, thence
- 2) South 75 degrees 03 minutes 40 seconds East 64.51 feet, thence
- 3) North 68 degrees 58 minutes 00 seconds East 241.04 feet, thence
- 4) South 10 degrees 47 minutes 00 seconds East 648.61 feet, thence
- 5) South 09 degrees 51 minutes 00 seconds East 476.82 feet, thence
- 6) South 05 degrees 56 minutes 07 seconds West 968.09 feet, thence
- 7) North 86 degrees 36 minutes 52 seconds West 387.07 feet, thence
- 8) South 17 degrees 33 minutes 00 seconds East 500.00 feet, thence
- 9) North 40 degrees 58 minutes 00 seconds West 1572.60 feet, thence
- 10) North 17 degrees 33 minutes 00 seconds West 440.08 feet, thence
- 11) North 72 degrees 27 minutes 00 seconds East 160.38 feet, thence

- 5 -

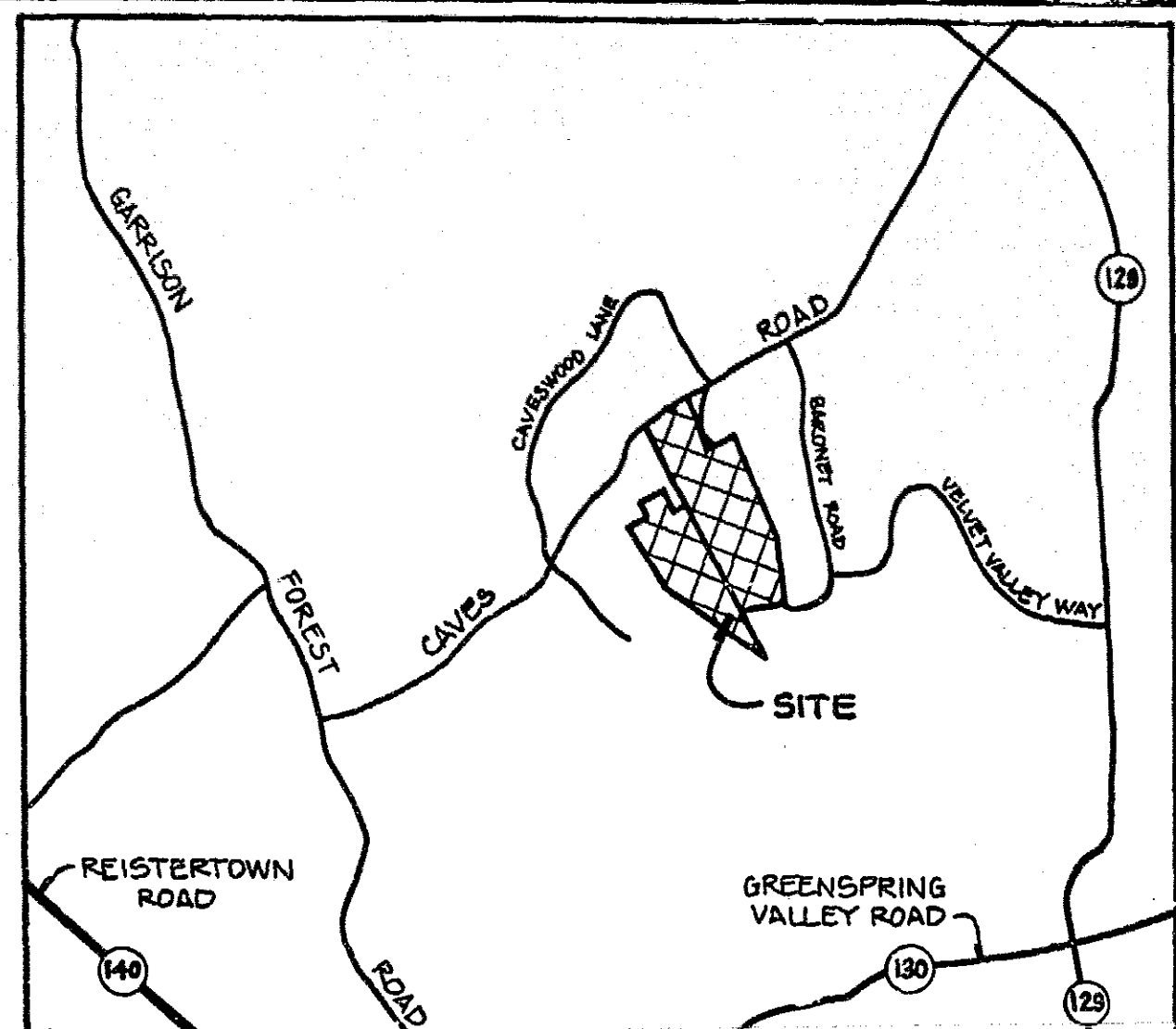
95-375-A



LEGEND



- EXISTING CONTOURS
- EXISTING STRUCTURE
- PROPERTY BOUNDARY
- EXISTING TREE LINE
- EXISTING STREAM
- FOREST BUFFER LIMIT
- PROPOSED TREE LINE
- PROPOSED LOT LINE
- PROPOSED HOUSE LOCATION
- PROPOSED SEPTIC RESERVE LOCATION
- LIMIT OF WETLANDS
- 100 YR. FLOODPLAIN
- SOIL TYPES
- PROPOSED WELL AREA



GENERAL NOTES

- Gross Area: 51.41 ±
- Net Area: 51.41 ±
- Current Use: RC-5
- Proposed Use: Rural Residential
- Dead References: Parcel 358 (map 58) - 6890/342
- Tax Acc. Numbers: Parcel 400 (map 58) - 6890/345
- Census Tract: 4037.01
- Watershed: #24
- Subwatershed: #61
- Density Calculations:

	REQUIRED/PERMITTED	PROPOSED
LOTS	@ .067 dwellings/acre = 34 lots	6 lots
PARKING SPACE	@ 2/lot = 12 spaces	12 spaces
OPEN SPACE	Not required in RC-5 zone	0

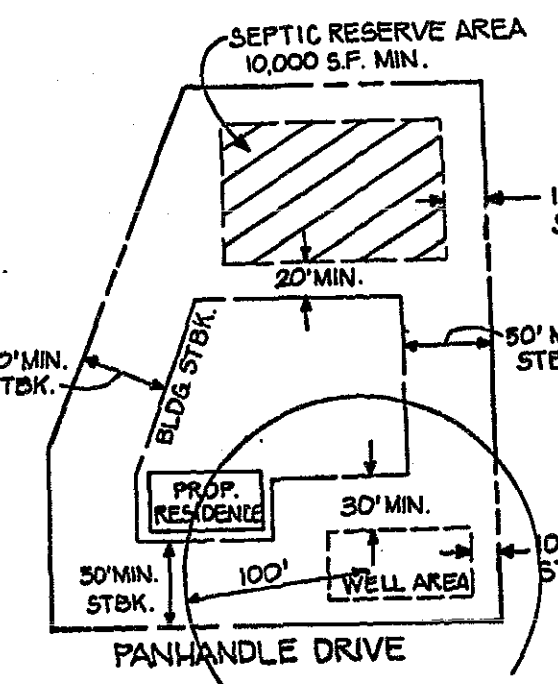
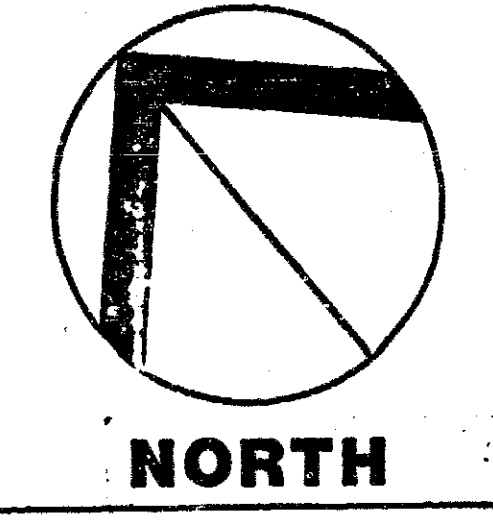
NOTE: This property is shown on the map as being held intact since 1985. The developer's engineer has confirmed that no part of the gross area of the property as shown has ever been utilized, recorded or represented as density or area to support any off-site dwellings.

NOTE: I, Margaret F. McKean, certify under oath that there are no delinquent accounts for any other development with respect to any of the following: the applicant, a person with a financial interest in the proposed development, or a person who will perform services on behalf of the proposed development.

- There is no open space requirement for this project.
- No variances, special exceptions, special hearings or waivers are being requested.
- There are no existing restrictive covenants or other legal restrictions on development of this site.
- Estimated number of additional average daily trips (ADT's) for this project: 52.
- All proposed lots will be served by private well and septic systems as shown on the plan.
- All proposed lots are larger than two acres - therefore this project is exempt from stormwater management requirements.
- The site is partially forested. A forest stand delineation has been prepared, submitted and approved by Baltimore County DEPRM. A Forest Conservation Plan will be submitted in conjunction with this Development Plan.
- No more than 15% of any lot in an RC-5 zone may be covered by buildings.
- No more than one dwelling is permitted on any lot in an RC-5 zone.
- There are no proposed impacts to the non-tidal wetlands on this project.
- Topography shown is taken from the Baltimore County 200 scale topography.
- Two underground fuel storage tanks exist on site. Both tanks will be tested to confirm absence of leakage.
- All private drives are to be paved with a durable, dustless surface - bituminous paving.
- Easement agreements for panhandles to be recorded at the same time as the record plat.
- Panhandle drives will be maintained by owners of the lots served.
- There shall be no clearing, grading, constructing, or disturbance of vegetation in the forest buffer and forest conservation easements except as permitted by the Baltimore County Department of Environmental Protection and Resource Management.
- Any forest buffer or forest conservation easement shown hereon is subject to protective covenants which may be found in the Land Records of Baltimore County and which restrict disturbance and use of these areas.
- Envelopes shown hereon are for the location of all principle buildings only. Accessory structures, fences and projections into yards may be constructed outside the envelope, but must comply with Sections 400 and 301 of the Baltimore County Zoning Regulations (BCZR). (Subject to covenants and applicable building permits.)
- Accessory structures, fences and projections into yards cannot be located in floodplain areas or hydric soils.
- Any buildings to remain that will not be used as a dwelling must meet requirements of Section 400 of the BCZR.
- There are no known archaeological or historical sites on the property. The Fish, Heritage, and Wildlife Administration has no record of rare, threatened or endangered species habitats within this project site.
- All lots will be sold in fee simple.
- This Development Plan is approved by the Zoning Commissioner based on his interpretation of the Zoning Regulations, that it complies with present policy, density and bulk controls as they are delineated in the Regulations. Any part or parcel of this tract that has been utilized for density to support dwellings shown thereon shall not be further divided, subdivided or developed for additional dwellings other than that indicated presently on said plan. Utilization will have occurred when a dwelling is constructed and transferred for the purpose of occupancy.
- Outline survey shown hereon is taken from deed and survey prepared by Malcolm Hudkins.

PETITIONER'S EXHIBIT

OFFICE OF PLANNING AND ZONING
Approved by:
Director of Planning Date
Zoning Commissioner Date



TYPICAL LOT LAYOUT NTS

SOIL SERIES DATA

SYMBOL	DESCRIPTION	STREETS/PARKING	HOMESITES w/o BASEMENTS	HOMESITES w/ BASEMENTS
GcB2	Glenelg loam, 3-8% slopes, Moderately eroded	Moderate: Slope	Slight	Slight
GcC2	Glenelg loam, 8-15% slopes, Moderately eroded	Severe: Slope	Moderate: Slope	Moderate: Slope
GnB	Glenville silt loam, 3-8% slopes	Severe: High water table	Moderate: High water table	Severe: High water table



BALTIMORE COUNTY PLANNING AND ZONING OFFICIAL ZONING MAP Council	SCALE 1" = 200' ±	LOCATION THE CAVES	SHEET N.W. 12-G
DATE OF PHOTOGRAPHY JANUARY 1986	THIS MAP HAS BEEN REVISED IN SELECTED AREAS. TOPOGRAPHY COMPILED BY PHOTOGRAMMETRIC METHODS BY BUCHART-HORN, INC. BALTIMORE, MD. 21210		

1988 COMPREHENSIVE ZONING MAP
 Adopted by the Baltimore County Council
 Oct. 13, 1988
 BR Nos. 144-88, 145-88, 146-88, 147-88, 148-88, 149-88, 150-88
[Signature]
 Chairman, County Council

BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING OFFICIAL ZONING MAP

1992 COMPREHENSIVE ZONING MAP Adopted by the Baltimore County Council Oct. 15, 1992 BR Nos. 153-92, 154-92, 155-92, 156-92, 157-92, 158-92, 159-92	SCALE 1" = 200' ±	LOCATION ECCLESTON PO. CHATTOLANEE	SHEET N.W. 12-F
DATE OF PHOTOGRAPHY JANUARY 1986	<i>[Signature]</i> Council		